

# **EXHIBIT E**

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11 FEDERAL TRADE COMMISSION

12  
13 UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

14 Federal Trade Commission,  
15 Plaintiff,

v.

16 Grand Canyon Education, Inc., *et al.*,  
17 Defendants.

No. CV-23-02711-PHX-DWL

**PLAINTIFF'S RESPONSE TO  
DEFENDANT GRAND CANYON  
EDUCATION, INC.'S FIRST SET OF  
INTERROGATORIES TO PLAINTIFF  
FEDERAL TRADE COMMISSION**

18  
19 In accordance with Federal Rules of Civil Procedure 26 and 33, plaintiff Federal  
20 Trade Commission ("FTC" or "Commission") hereby responds to Defendant Grand  
21 Canyon Education, Inc.'s First Set of Interrogatories to Plaintiff Federal Trade  
22 Commission. The FTC's responses to the Interrogatories represent the FTC's present  
23 knowledge based on its investigation, information, and preparation to date. The FTC  
24 reserves the right to supplement, revise, modify, or otherwise change or amend its  
25 responses to the Interrogatories.  
26

**OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

1. The FTC objects to the Interrogatories to the extent that they seek to impose on the FTC any obligations beyond those provided for in the Federal Rules of Civil Procedure.

2. The Commission objects that each Interrogatory that includes the defined term “Communications” is overbroad and unduly burdensome because Communications is defined in this Set of Interrogatories to include “every exchange of information by any means . . . without limitation” and, thus, requests identification of every interaction with information in any form or context. Furthermore, the definition of Communications states that anything that “relates to any correspondence or communication” is “deemed” to be a correspondence or communication —and this First Set of Interrogatories defines “related” in a manner that encompasses information that is far removed from subject matter of the Interrogatory. The burden of compiling a description of each “deemed” Communication outweighs any likely benefit.

3. The Commission objects to each Interrogatory that includes the term “any.” The instructions construe “any” to mean “each and every” and “any and all.” Each Interrogatory requesting “each and every” and “any and all” information fails to describe the information requested with reasonable particularity. In addition, the burden of producing the information requested by the Interrogatories for each and every exchange encompassed within every Interrogatory would outweigh any likely benefit.

4. The FTC objects that these Interrogatories—including Interrogatories that incorporate the definition of “Communications” and construction of “any”—seek information that is not discoverable pursuant to the Federal Rules of Civil Procedure and is exempt from disclosure by law, including information protected from disclosure by statute, the attorney-client privilege, the work product doctrine, the deliberative process privilege, the law enforcement evidentiary or investigatory files privilege, the

1 government informant's privilege, or any other applicable privilege of law. The FTC  
2 does not intend to waive any of the privileges asserted in this objection by any  
3 inadvertent reference to, or production of, protected documents or information. The  
4 Amended Complaint is the work product of FTC attorneys, paralegals, and support staff  
5 investigating of potential violations of federal law in anticipation of litigation, the FTC's  
6 deliberative process, and investigatory procedures. Documents, communications and  
7 conversations relating to, analyzing, evaluating, selecting, gathering, and describing  
8 information in the course of such investigation is protected by the work-product  
9 doctrine, and some materials are protected from disclosure by statute, the attorney-client  
10 privilege, the deliberative process privilege, the law enforcement evidentiary or  
11 investigatory files privilege, and the government informant's privilege. The foundation  
12 for the FTC's privileges and withholding under the work-product doctrine will be further  
13 set forth in a privilege log.

14 5. The FTC objects to the instruction to provide full and complete responses because  
15 these Interrogatories broadly demand identification or narrative descriptions of all facts,  
16 Documents, Communications, conversations, or transactions concerning an allegation or  
17 purported allegation. Such requests are overly broad, unduly burdensome, and  
18 improper. *See FTC v. Am. eVoice, Ltd.*, No. CV 13-03-M-DLC, 2017 WL 476617, at \*7  
19 (D. Mont. Feb. 3, 2017); *Wilcox v. Changala*, No. CV-10- 3048, 2012 WL 12844083  
20 (E.D. Wash. Jan. 18, 2012); *Lucero v. Valdez*, 240 F.R.D. 591, 594 (D.N.M. 2007).

21 6. The FTC objects that these Interrogatories are misdirected, premature, and unduly  
22 burdensome because they request that the FTC provide comprehensive accounts and  
23 detailed information that relates to the affirmative defenses for which Defendants have  
24 not provided a foundation, has not been provided in discovery or is the subject of  
25 outstanding requests, or is uniquely accessible to Defendants. The Commission does not  
26 have general access to relevant unredacted education records as Defendants have not

1 initiated or completed the notice procedures in accordance with the Order entered in this  
2 action on October 9, 2024, and without discovery the Commission does not have access  
3 to details requested in these Interrogatories. Defendants also have unique access to  
4 information regarding the content of and changes to websites, enrollment agreements,  
5 catalogues, advertising and marketing solicitations, and other material. The burden of  
6 requiring the Commission to provide details that the Commission must obtain through  
7 discovery —such as distribution dates for agreements or advertising —outweighs the  
8 benefit of such discovery and is not proportional to the needs of this Litigation,  
9 particularly given Defendants’ control of such information, the limitations on discovery,  
10 and the stage of discovery.

11 **I. INTERROGATORY RESPONSES**

12 **INTERROGATORY NO. 1:** Identify every consumer with whom You have had  
13 any Communication pertaining to any of the allegations in Your Amended Complaint,  
14 and for each Communication, provide a brief description of the nature of the  
15 Communication, mode of the Communication, date of the Communication, substance of  
16 the Communication, and approximate length of the Communication.

17 **INTERROGATORY NO. 1 RESPONSE**

18 The FTC objects that this Interrogatory fails to describe the information requested  
19 with reasonable particularity, is ambiguous, and is overbroad in requesting identification  
20 of *every* consumer with whom the FTC has had *any* Communication pertaining to the  
21 allegations in the *entire* Amended Complaint, as it is not limited to consumers who have  
22 information relevant to the claims or defenses in this action, nor is it proportional to the  
23 needs of the Litigation. The Interrogatory’s request for the date, length, nature, and  
24 substance of every such Communication is also overbroad and unduly burdensome. The  
25 FTC further objects to this Interrogatory as duplicative, as the FTC has already disclosed  
26 in its Rule 26(a)(1) persons who are likely to have discoverable information.

1       The Interrogatory is also overbroad and unduly burdensome because  
2 “Communications” is defined in this Set of Interrogatories to include “every exchange of  
3 information by any means . . . without limitation” and, thus, requests identification of  
4 every interaction with information in any form or context. Furthermore, the definition of  
5 Communications states that anything that “relates to any correspondence or  
6 communication” is “deemed” to be a correspondence or communication— and this First  
7 Set of Interrogatories defines “related” in a manner that encompasses information that is  
8 far removed from subject matter of the Interrogatory. The burden of compiling a  
9 description of each “deemed” Communication outweighs any likely benefit.

10       In addition, the instructions of this Set of Interrogatories construe “any” to mean  
11 “each and every” and “any and all.” The burden of producing the information requested  
12 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
13 would outweigh any likely benefit.

14       Insofar as this request seeks identification of communications with consumers  
15 that support principal and material allegations in the Amended Complaint, the FTC  
16 responds that information responsive to this request is ascertainable from Documents  
17 that will be produced in response to Defendant GCE’s First Set of Document requests.  
18 Reports from consumers who have contacted the FTC and reported unwelcome  
19 telemarketing calls on behalf of GCU to persons on do-not-call lists, issues regarding the  
20 GCU doctoral program or referenced GCU’s representations that it is a non-profit will be  
21 produced in response to those Requests. Authorizations to access education records will  
22 be produced in the response to those Requests. Furthermore, statements that consumers  
23 have provided to the FTC or other agencies regarding these topics will also be produced  
24 in response to those First Set of Requests.

25       The FTC will not provide further details in response to this Interrogatory and  
26 objects that Communications with consumers in preparation for litigation or trial

1 regarding the conduct alleged in the Amended Complaint, and the recollections and  
2 mental impressions of Commission staff regarding such Communications, are protected  
3 by the work-product doctrine, and details requested by the Interrogatory (e.g., dates and  
4 duration) are protected work product and the burden of compiling such details is not  
5 proportional to the needs of the case.

6  
7 **INTERROGATORY NO. 2:** Identify every consumer with whom You have had  
8 any Communication whose complaint made to You gives rise to Your allegation that  
9 consumers were “thwarted” because they “cannot afford the additional costs and time  
10 necessary to fulfill GCU’s requirements beyond the twenty courses identified as  
11 required,” as alleged in Paragraph 63 of the Amended Complaint. For each  
12 Communication, provide a brief description of (a) the name of the Person with whom  
13 You communicated; (b) the nature of the Communication; (c) the mode of the  
14 Communication; (d) the date of the Communication; (e) the substance of the  
15 Communication; and (f) GCU’s alleged “requirements” beyond the courses identified as  
16 required.

17 **INTERROGATORY NO. 2 RESPONSE**

18 The FTC objects to this Interrogatory as ambiguous and overbroad in requesting  
19 identification of *every* consumer with whom the FTC has had *any* Communication  
20 pertaining to the allegations in Paragraph 63 of the Amended Complaint and is not  
21 limited to principal and material support or the ordinary meaning of communications,  
22 nor is it proportional to the needs of the Litigation. The Interrogatory’s request for the  
23 date, length, nature, and substance of every such Communication is also overbroad and  
24 unduly burdensome. The Interrogatory is also overbroad and unduly burdensome  
25 because “Communications” is defined in this Set of Interrogatories to include “every  
26 exchange of information by any means . . . without limitation” and, thus, requests

1 identification of every interaction with information in any form or context. Furthermore,  
2 the definition of Communications states that anything that “relates to any  
3 correspondence or communication” is “deemed” to be a correspondence or  
4 communication— and this First Set of Interrogatories defines “related” in a manner that  
5 encompasses information that is far removed from subject matter of the Interrogatory.  
6 The burden of compiling a description of each “deemed” Communication outweighs any  
7 likely benefit.

8 In addition, the instructions of this Set of Interrogatories construe “any” to mean  
9 “each and every” and “any and all.” The burden of producing the information requested  
10 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
11 would outweigh any likely benefit.

12 Insofar as this Interrogatory seeks identification of Communications with  
13 consumers that principally and materially support allegations in Paragraph 63 of the  
14 Amended Complaint allegations in the Amended Complaint, information responsive to  
15 this Interrogatory is ascertainable from Documents from consumers who have contacted  
16 the FTC and reported experiences that support Paragraph 63 of the Amended Complaint  
17 and from Documents in Defendants’ possession, custody, or control. Responsive, non-  
18 privileged documents will be produced in response to GCE’s First Set of Document  
19 Requests.

20 The FTC will not provide further details in response to this Interrogatory and  
21 objects that Communications with consumers in preparation for litigation or trial  
22 regarding the conduct alleged in the Amended Complaint, and the recollections and  
23 mental impressions of Commission staff regarding such Communications, are protected  
24 by the work-product doctrine. Details requested by the Interrogatory (e.g., dates and  
25 duration) are protected work product and the burden of compiling such details is not  
26 proportional to their relevance or the needs of the case.



**INTERROGATORY NO. 3:** Identify every Communication You have had [sic] Persons currently or formerly employed by or affiliated with GCE or GCU, including any current or former students of GCU, pertaining to any of the allegations in Your Amended Complaint. For each Communication, identify (a) the name of the Person with whom You communicated, (b) the nature of the Communication, (c) the mode of the Communication, (d) the date of the Communication, and (e) the substance of the Communication.

**INTERROGATORY NO. 3 RESPONSE**

The FTC construes this Interrogatory as a request for identification of Communications *with* Persons currently or formerly employed by or affiliated with GCE or GCU— excluding Communications that FTC staff have had with counsel for GCE or GCU and GCE’s designee during pre-complaint investigation of GCE and GCU’s conduct and during this Litigation.

The FTC objects to this Interrogatory as ambiguous and overbroad in requesting identification of *every* Communication, and is not limited to communications of significance or by ordinary meaning of communications, nor is it proportional to the needs of the Litigation. The Interrogatory’s request for the date, nature, and substance of every such Communication is also overbroad and unduly burdensome. The Interrogatory is also overbroad and unduly burdensome because “Communications” is defined in this Set of Interrogatories to include “every exchange of information by any means . . . without limitation” and, thus, requests identification of every interaction with information in any form or context. Furthermore, the definition of Communications states that anything that “relates to any correspondence or communication” is “deemed” to be a correspondence or communication— and this First Set of Interrogatories defines “related” in a manner that encompasses information that is far removed from subject matter of the Interrogatory. The burden of compiling a description of each “deemed”

1 Communication outweighs any likely benefit.

2 In addition, the instructions of this Set of Interrogatories construe “any” to mean  
3 “each and every” and “any and all.” The burden of producing the information requested  
4 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
5 would outweigh any likely benefit.

6 The FTC objects that this Interrogatory seeks information protected by the  
7 informant’s privilege. *In re Perez*, 749 F.3d 849, 856 (9th Cir. 2014). Furthermore,  
8 communications with other Persons affiliated with GCE or GCU in preparation for  
9 litigation or trial regarding the conduct alleged in the Amended Complaint, and the  
10 recollections and mental impressions of Commission staff regarding such  
11 Communications, are protected by the work-product doctrine. Details requested by the  
12 Interrogatory (e.g., dates and duration) are protected work product and the burden of  
13 compiling such details is not proportional to their relevance or the needs of the case.  
14 The Commission does not currently have any Communications to describe that are not  
15 protected by the aforementioned privileges or the work-product doctrine.

16  
17 **INTERROGATORY NO. 4:** Identify every communication You have had with a  
18 Person employed by or affiliated with any other state or federal government agency,  
19 including the Department of Education, Consumer Financial Protection Bureau, State  
20 Attorneys General, or the Department of Veteran Affairs, pertaining to any of the  
21 allegations in Your Amended Complaint. For each Communication, identify (a) the  
22 name of the Person with whom You communicated; (b) the nature of the  
23 Communication; (c) the mode of the Communication; (d) the date of the  
24 Communication; and (e) the substance of the Communication.

25 **INTERROGATORY NO. 4 RESPONSE**

26 The FTC objects to this Interrogatory as ambiguous and overbroad in requesting  
27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO  
28 PLAINTIFF FEDERAL TRADE COMMISSION

1 identification of *every* communication, and is not limited to significant communications  
2 or the ordinary meaning of communications, nor is it proportional to the needs of the  
3 Litigation. The Interrogatory’s request for the date, nature, and substance of every such  
4 Communication is also overbroad and unduly burdensome. The Interrogatory is also  
5 overbroad and unduly burdensome because “Communications” is defined in this Set of  
6 Interrogatories to include “every exchange of information by any means . . . without  
7 limitation” and, thus, requests identification of every interaction with information in any  
8 form or context. Furthermore, the definition of Communications states that anything that  
9 “relates to any correspondence or communication” is “deemed” to be a correspondence  
10 or communication— and this First Set of Interrogatories defines “related” in a manner  
11 that encompasses information that is far removed from subject matter of the  
12 Interrogatory. The burden of compiling a description of each “deemed” Communication  
13 outweighs any likely benefit.

14 In addition, the instructions of this Set of Interrogatories construe “any” to mean  
15 “each and every” and “any and all.” The burden of producing the information requested  
16 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
17 would outweigh any likely benefit.

18 The FTC objects to this Request on the basis of the law enforcement evidentiary  
19 or investigatory files privilege, the deliberative process privilege, and the work-product  
20 doctrine. Accordingly, the FTC will not produce communications with other law  
21 enforcement agencies, documents related to such communications, or memoranda and  
22 analyses prepared in anticipation of litigation, or communications and documents with  
23 third parties protected by the work product privilege. The FTC also objects to this  
24 Interrogatory as ambiguous and overbroad in requesting identification of “every  
25 communication” with any Person “employed by or affiliated with any other state or  
26 federal government agency” and will construe the Interrogatory as seeking substantive

1 non-privileged communications requesting information regarding Defendants’  
 2 marketing, and exclude automated online queries for public records.

3 The FTC responds that it has communicated with the following agencies to  
 4 request information regarding Defendants’ telemarketing, application for recognition, or  
 5 consumer complaints:

- 6 • Alaska Department of Law, Commercial, Fair Business & Child Support
- 7 Section
- 8 • Arizona Secretary of State, Business Services Division
- 9 • Colorado Department of Law, Consumer Protection Section
- 10 • Indiana Office of the Attorney General, Consumer Protection Division
- 11 • North Carolina Secretary of State, Telephonic Sellers Registration
- 12 • Ohio Attorney General, Consumer Protection Unit
- 13 • Oklahoma Attorney General, TRACR
- 14 • Washington State Department of Licensing
- 15 • West Virginia State Tax Department, Office of Business Registration
- 16 • United States Department of the Treasury, Internal Revenue Service
- 17 • United States Department of Education.

18 The non-privileged information regarding the mode, substance and date of the  
 19 communication may be ascertained from Documents the FTC will produce in response  
 20 to GCE’s First Set of Document requests.

21  
 22 **INTERROGATORY NO. 5:** Identify every instance in which Defendants initiated  
 23 an outbound telephone call to a consumer in the United States to induce the purchase of  
 24 educational services and for which the telephone numbers were “collected through  
 25 online and social media advertisements that do not clearly disclose to consumers the  
 26 language purporting to authorize telemarketing,” as alleged in Paragraph 41 of Your

27 PLAINTIFF’S RESPONSE TO DEFENDANT GRAND CANYON EDUCATION, INC.’S FIRST SET OF INTERROGATORIES TO  
 28 PLAINTIFF FEDERAL TRADE COMMISSION

1 Amended Complaint. For each instance, identify (a) the name of the Person who  
2 received the outbound telephone call from Defendants; (b) the date of the call; (c) the  
3 substance of the call; (d) the specific language purporting to authorize telemarketing; and  
4 (e) the basis for Your belief that the referenced language does not satisfy an exemption  
5 to the National Do Not Call Registry.

6 **INTERROGATORY NO. 5 RESPONSE**

7 The FTC objects that this Interrogatory is misdirected and premature because it  
8 seeks material relevant to an affirmative defense for which Defendants have yet to  
9 provide a foundation. The Interrogatory seeks the basis for an affirmative defense that  
10 consumers on the Do Not Call Registry authorized telemarketing calls on behalf of  
11 GCU. The Telemarketing Sales Rule (“TSR”) requires that such authorization be proven  
12 by the seller or telemarketer such that the seller or telemarketer: “[c]an demonstrate that  
13 the seller has obtained the express agreement, in writing, of such person to place calls to  
14 that person. Such written agreement shall clearly evidence such person's authorization  
15 that calls made by or on behalf of a specific party may be placed to that person, and shall  
16 include the telephone number to which the calls may be placed and the signature of that  
17 person.” 16 C.F.R. § 310.4(b)(1)(iii)(B)(1). Defendants have the burden of securing  
18 written consent as required by the TSR and maintaining evidence to prove such  
19 authorization. *See* 16 C.F.R. § 310.5. Accordingly, it is incumbent on Defendants to  
20 identify every instance in which Defendants initiated an outbound telephone call  
21 permitted by such authorization, including the date of the call, the Person who  
22 authorized the call, and the specific language purporting to authorize telemarketing. As  
23 Defendants have not produced business records that show authorization or set forth the  
24 authorization language for particular calls, this Interrogatory is premature. The burden  
25 of demonstrating that the authorization was properly presented to the consumer, and  
26 signed by the consumer is on Defendants. Defendant GCE has acknowledged that it has

1 been unable to produce such evidence for more than 2.7 million calls, and has not  
2 produced evidence for tens of millions of other calls. The FTC does not have business  
3 records demonstrating outbound telephone call details or authorization, and considers all  
4 such outbound calls to be in violation of the TSR in the absence of Defendants  
5 producing admissible evidence that an individual gave valid consent to an authorization  
6 that complied with the TSR.

7 Furthermore, the FTC objects to the Interrogatory's request for identification of  
8 "the name of the Person who received the outbound telephone call from Defendants" and  
9 "the substance of the call." The Interrogatory's request for these irrelevant details is not  
10 within the proper scope of discovery, and a response would require expense that exceeds  
11 any benefit. The TSR violation arises from making an outbound telemarketing call to a  
12 given telephone number, without authorization, and does not depend on the name of the  
13 Person who received the call. In addition, all outbound calls made in connection with  
14 Defendants' program to induce the purchase of educational services are subject to the  
15 TSR.

16 Information identifying the date of outbound calls to telephone numbers obtained  
17 through these solicitations should be in business records of GCE that are the subject of  
18 ongoing discovery in this action. To the extent that Defendants claim that they obtained  
19 proper authorization for these outbound telephone calls through solicitations that used  
20 one of the four digital forms from GCE's records reproduced in the Amended  
21 Complaint, the Amended Complaint sets forth multiple reasons why these four  
22 solicitations would not constitute valid express authorization for an outbound  
23 telemarketing call under the TSR. Amended Complaint ¶¶ 41-46.

24  
25 **INTERROGATORY NO. 6:** Identify every instance in which Defendants

26 initiated an outbound telephone call to a consumer in the United States to induce

the purchase of educational services and “misrepresented, directly or indirectly, expressly or by implication, material information regarding GCU and its services, including, but not limited to representations that: [(a)] GCU is a non-profit institution; [(b)] GCU transitioned back to its prior manner of operation as a non-profit educational institution; [(c)] GCU doctoral degrees that include a dissertation are typically completed in twenty courses or 60 credits; and [(d)] GCU’s total charges for doctoral degrees that include a dissertation are the tuition and fees for twenty courses,” as alleged in Paragraph 89 of Your Amended Complaint. For each instance, identify (a) the name of the Person who received the outbound telephone call from Defendants; (b) the date of the call; (c) the substance of the call; and (d) the basis for Your belief that such outbound telephone call violated the Telemarketing Sales Rule.

#### **INTERROGATORY NO. 6 RESPONSE**

The FTC objects that this Interrogatory represents at least four discrete Interrogatories in its subparts [(a)]-[(d)]. Each Interrogatory is overbroad and unduly burdensome in requesting narrative details on every instance in which Defendants initiated an outbound call that involved any of the conduct described. Moreover, the Interrogatories are misdirected and premature at this early stage of discovery. The Interrogatories are also predicated on a distortion of Paragraph 89 of the Amended Complaint. Paragraph 89 alleges that Defendants have made the identified representations “in connection with the telemarketing of educational service,” and prior factual allegations describe how these representations were made in connection with Defendants’ telemarketing. Amended Complaint ¶¶ 22-23, 28-34, 50-56, 64-65. The violations of the TSR described in Paragraph 89 do not rest on representations in individual instances in which Defendants initiated an outbound telephone call to a consumer in the United States to induce the purchase of educational services. Based on GCE’s records, GCE telemarketers made approximately 17 million telemarketing

1 calls annually marketing GCU educational services. The four Interrogatories requesting  
2 details on “every instance” of such outbound calls including a particular representation  
3 are unduly burdensome and not proportional to the needs of discovery in this action, as  
4 such details are not necessary to demonstrate violations of the TSR. In addition, GCE  
5 has not produced the recordings, diaries of telemarketer communications, and other  
6 records detailing the telemarketers’ activities in ongoing discovery.

7  
8 **INTERROGATORY NO. 7:** Identify by name and describe each and every  
9 advertisement or marketing material of any type, form, or medium that You claim  
10 misled consumers— affirmatively or by omission—regarding GCU’s nonprofit status.  
11 For each such advertisement or marketing material, identify: (a) the date(s) or  
12 approximate date(s) on which the consumer viewed the advertisement or marketing  
13 material; (b) the medium in which the advertisement or marketing material was  
14 presented; and (c) the specific content or omission(s) in the advertisement or marketing  
15 material that the consumer told You was misleading regarding GCU’s nonprofit status.

16 **INTERROGATORY NO. 7 RESPONSE**

17       The FTC objects that this contention Interrogatory is misdirected and premature  
18 at this early stage of discovery. Moreover, the request for details on “each and every  
19 advertisement or marketing material of any type, form, or medium that You claim” is  
20 unduly burdensome, not proportional to the needs of discovery in this action, as such  
21 details are not necessary to demonstrate violations of the TSR. Defendant GCE  
22 disseminated digital and print advertising through multiple channels; details regarding  
23 particular dates, which consumers viewed the advertisement, or what consumers reported  
24 are not required to demonstrate that Defendants circulated representations regarding  
25 GCU’s non-profit status. Furthermore, the information regarding the advertisements and  
26 marketing material, the media used to disseminate them, and the dates they were



presented to consumers are in Defendants' possession, custody, and control. In addition, the Amended Complaint does not allege consumers reported specific content or omission(s) in the advertisement or marketing material regarding GCU's nonprofit status was misleading.

**INTERROGATORY NO. 8:** Identify by name and describe each enrollment agreement, catalogue, online publication, chart, and other material or Document that You allege Defendants distributed and that You claim misled consumers—affirmatively or by omission—regarding GCU's doctoral programs. For each material or Document, identify (a) the material or Document distributed; (b) the date(s) or approximate dates(s) on which the consumer viewed the material; (c) the principal and material facts that form the basis for Your allegation that each Defendant knew the representation(s) were not true; and (d) the specific content or omission(s) in the material that the consumer told You was misleading regarding GCU's doctoral programs.

**INTERROGATORY NO. 8 RESPONSE**

The FTC objects that subparts (c) and (d) represent discrete questions and, therefore, this Interrogatory represents at least three separate Interrogatories. The Interrogatories are ambiguous and unduly burdensome, and misdirected insofar as they demand the Commission provide detailed information on matters uniquely within Defendants' possession at this stage of discovery. The Commission does not have general access to relevant unredacted education records as Defendants have not initiated or completed the notice procedures in accordance with the Order entered in this action on October 9, 2024, and without discovery the Commission does not have details regarding the dates materials were in use. The burden of cataloguing the distribution dates for each enrollment agreement, catalogue, online publication, chart, and other

1 material outweighs the benefit of such discovery, and Defendants are uniquely in  
2 possession of such information. Subpart (b) is also overbroad and unduly burdensome in  
3 requesting narrative details on every instance in which the consumer viewed the  
4 material. Defendants recruited thousands of consumers for doctoral programs during the  
5 relevant time period, and Defendants have sole possession of the education records that  
6 would provide even a partial record of when consumers viewed enrollment agreements  
7 and other material. Subpart (c) demands facts about Defendants' knowledge of  
8 unspecified "representation(s)" — a demand contrary to the preceding text of the  
9 Interrogatory which requires identifying and describing "each material." Subpart (d) is  
10 ambiguous and unduly burdensome as the Amended Complaint does not allege and there  
11 is no requirement that a consumer report to the Commission "the specific content or  
12 omission(s) in the material" was misleading.

13  
14 **INTERROGATORY NO. 9:** Identify with specificity all misrepresentations You  
15 allege were made on GCU's website, including (a) each alleged representation by GCE;  
16 (b) each alleged representation by GCU; and (c) the principal and material facts that  
17 form the basis for Your allegation that each Defendant knew the representations and  
18 omissions were likely to deceive consumers.

19 **INTERROGATORY NO. 9 RESPONSE**

20 The Commission objects that this Interrogatory is overbroad, ambiguous, and  
21 unduly burdensome. The Interrogatory encompasses "all misrepresentations" made on  
22 GCU's website without limitation. GCU's website is extensive, is frequently modified,  
23 and contains numerous representations on matters that are tangential to or outside the  
24 scope of this litigation. Further, the Interrogatory requests identification "with  
25 specificity all misrepresentations You allege were made on GCU's website" without  
26 identifying any specific allegation. Identifying and providing the details requested by

1 the Interrogatory regarding all misrepresentations would entail burden and expense  
2 outweighs any likely benefit to resolving the issues involved in this Litigation.  
3 Moreover, subpart (c)'s request for "the principal and material facts that form the basis  
4 for Your allegation that each Defendant knew the representations and omissions were  
5 likely to deceive consumers" does not reference any paragraph of the Amended  
6 Complaint. This Interrogatory is also misdirected and premature at this stage of discovery  
7 as Defendants have yet to provide relevant discovery.

8  
9 **INTERROGATORY NO. 10:** With respect to Your allegation in Paragraph 32 of  
10 Your Amended Complaint that "GCE has established job 'performance metrics' for  
11 telemarketers that include 'Annual Student Counts' that specify the number of consumers  
12 each telemarketer should enroll and retain," identify the factual basis, including all  
13 principal and material facts, for Your allegation and identify all Documents and  
14 Communications that support this allegation.

15 **INTERROGATORY NO. 10 RESPONSE**

16 The Commission responds to the portion of this Interrogatory that requests the  
17 factual basis for Paragraph 32 of the Amended Complaint, and objects to the remainder  
18 of the Interrogatory as overbroad, unduly burdensome, and premature.

19 Paragraph 32 of the Amended Complaint is based on exhibits and statements filed  
20 in the summary judgment record of MacKillop v. Grand Canyon University, D. Mass.,  
21 Docket No. 1:18-cv-1119, and D. Ariz., Docket No. 2:23cv467, Grand Canyon  
22 University Counselor and University Development Counselor Job Expectations (GCE-  
23 FTC-CID-010-00000118- GCE-FTC-CID-010-00000135), and Corrective Action Plans.

24 The portion of the Interrogatory demanding "all principal and material facts" and  
25 "all Documents and Communications that support this allegation," is overbroad, unduly  
26 burdensome, and premature. The Commission objects to the request for "all principal

1 and material facts” for the allegation because of the volume of Corrective Action Plans,  
2 personnel reviews of hundreds of GCE telemarketers, and related documents is  
3 enormous, and the truth of this allegation may be established without all such facts, and  
4 Defendant GCE has superior access to the facts. The Commission objects to the portion  
5 of the Interrogatory that requests “all Documents and Communications that support this  
6 allegation” because a request to search for and describe all Documents and  
7 Communications that support these allegations would require descriptions of many  
8 Documents and Communications of marginal, indirect, or secondary support. Cataloging  
9 all such Documents and Communications that support this allegation would be  
10 unreasonably burdensome and not proportional to the needs of this case as the  
11 requirements and procedures are evident in general policy documents and exemplars. The  
12 Interrogatory is overbroad and unduly burdensome because Communications is defined  
13 in this Set of Interrogatories to include “every exchange of information by any means . . .  
14 without limitation” and, thus, requests identification of every interaction in which  
15 telemarketer expectation and metrics would appear. The Interrogatory is overbroad and  
16 unduly burdensome because the definition of Communications states that anything that  
17 “relates to any correspondence or communication” is “deemed” to be a correspondence  
18 or communication – and defines “related” in a manner that encompasses information that  
19 is far removed from the actual evidence of the representation. The burden of compiling  
20 a description of each “deemed” Communication outweighs any likely benefit.

21 In addition, the instructions of this set of Interrogatories construe “any” to mean  
22 “each and every” and “any and all.” The burden of producing the information requested  
23 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
24 would outweigh any likely benefit.

25 Finally, the Commission objects to the Interrogatory’s unqualified demand for all  
26 Documents and Communications as it encompasses information prepared in anticipation

1 of litigation and, therefore, protected by the work-product doctrine and deliberative  
2 process privilege.

3  
4 **INTERROGATORY NO. 11:** With respect to Your allegation in Paragraphs 22 and 23  
5 of Your Amended Complaint that Defendants disseminated digital and print  
6 advertising representing that GCU had transitioned back to a nonprofit on websites, social  
7 media, press releases, video marketing and social media,” identify (a) the Defendant  
8 that made the representation; (b) the factual basis, including all principal and  
9 material facts, for Your allegation; and (c) all Documents, Communications, or  
10 conversations that support this allegation.

11 **INTERROGATORY NO. 11 RESPONSE**

12 The Commission responds only to subpart (a) of this Interrogatory.

13 (a) Defendant GCE, as exclusive marketer for GCU and performing services  
14 under the Master Services Agreement, and Defendant GCU, which authorized the  
15 advertising, marketing, promotion, offering for sale, or sale of GCU educational  
16 services, disseminated digital and print advertising, like the example that appears in  
17 Paragraph 22 of the Amended complaint, stating that GCU had transitioned back to a  
18 nonprofit.

19 (b), (c) The remaining subparts of these compound Interrogatories are overbroad,  
20 unduly burdensome, and premature at this early stage of discovery, particularly given  
21 Defendants’ failure to produce relevant Documents. The Commission objects to the  
22 request for “all principal and material facts” for the allegation as unduly burdensome and  
23 premature because of the volume of advertising and marketing materials. The  
24 Commission objects to subpart (c)’s request for “all Documents, Communications, or  
25 conversations that support this allegation” because it is overbroad, unduly burdensome,  
26 and premature. A request to search for and describe all Documents, Communications, or

1 conversations that support these allegations would require descriptions of many  
2 Documents, Communications, or conversations of marginal, indirect, or secondary  
3 support. Cataloging all such Documents, Communications, or conversations that support  
4 this allegation would be unreasonably burdensome and not proportional to the needs of  
5 this case as the representations span multiple years, and often repeated in materials for  
6 different years and programs. The Interrogatory is overbroad and unduly burdensome  
7 because Communications is defined in this Set of Interrogatories to include “every  
8 exchange of information by any means . . . without limitation” and, thus, requests  
9 identification of every interaction with a website, email, messaging platform, social  
10 media, announcement, securities disclosure, flyer, brochure, presentation, or other media  
11 in which Grand Canyon University representations appear. The Interrogatory is  
12 overbroad and unduly burdensome because the definition of Communications states that  
13 anything that “relates to any correspondence or communication” is “deemed” to be a  
14 correspondence or communication— and defines “related” in a manner that encompasses  
15 information that is far removed from the actual evidence of the representation. The  
16 burden of compiling a description of each “deemed” Communication outweighs any  
17 likely benefit. Demanding all Documents, Communications, or conversations that  
18 support this allegation is also premature at this stage of discovery, in which Defendants  
19 have not yet produced relevant Documents.

20 In addition, the instructions of this Set of Interrogatories construe “any” to mean  
21 “each and every” and “any and all.” The burden of producing the information requested  
22 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
23 would outweigh any likely benefit.

24 Finally, the Commission objects to the Interrogatory’s unqualified demand for all  
25 Documents, Communications, and conversations as it encompasses information prepared  
26 in anticipation of litigation and, therefore, protected by the work-product doctrine and

1 deliberative process privilege.

2  
3 **INTERROGATORY NO. 12:** With respect to Your allegation in Paragraph 24 of  
4 Your Amended Complaint that Defendants' representations regarding GCU's  
5 nonprofit status were "material," identify (a) the Defendant that made the representation;  
6 (b) the factual basis, including all principal and material facts, for Your allegation;  
7 and (c) all Documents, Communications, or conversations that support this allegation.

8 **INTERROGATORY NO. 12 RESPONSE**

9 The FTC objects that this Interrogatory is ambiguous because it does not track the  
10 text of Paragraph 24 of the Amended Complaint, which quotes two statements  
11 describing the marketing impact of representations that GCU was a nonprofit. The FTC  
12 construes the Interrogatory as seeking the factual basis for the statements set forth in  
13 Paragraph 24. The statements appear in an article published by The Motley Fool,  
14 transcribing a video interview of Brian Mueller recorded on Oct. 1, 2018, under the title  
15 "Grand Canyon Education CEO Brian Mueller weighs in on the education field," and the  
16 edited transcript of the LOPE – Q4 2018 Grand Canyon Education Inc. Earnings Call,  
17 Feb. 20, 2019. The transcripts report that Defendant Mueller made the quoted  
18 statements.

19 The FTC objects to portions of subparts (b) and (c) of the Interrogatory  
20 demanding "all principal and material facts" and "all Documents and Communications  
21 that support this allegation," because they are overbroad, and unduly burdensome. The  
22 documents reporting the statements are sufficient to support the allegation, Defendant  
23 GCE has superior access to the facts, and no legitimate purpose is served by demanding  
24 that the FTC detail additional facts for this uncontested allegation. The Commission  
25 objects to the portion of the Interrogatory that requests "all Documents,  
26 Communications, and conversations" because it would be unreasonably

1 burdensome to require the FTC to catalog such information to establish that the statements  
2 were made. The Interrogatory is overbroad and unduly burdensome because  
3 Communications is defined in this Set of Interrogatories to include “every exchange of  
4 information by any means . . . without limitation” and, thus, requests identification of  
5 every interaction in which telemarketer expectation and metrics would appear. The  
6 Interrogatory is overbroad and unduly burdensome because the definition of  
7 Communications states that anything that “relates to any correspondence or  
8 communication” is “deemed” to be a correspondence or communication – and defines  
9 “related” in a manner that encompasses information that is far removed from the actual  
10 evidence of the representation. The burden of compiling a description of each “deemed”  
11 Communication outweighs any likely benefit.

12 In addition, the instructions of this Set of Interrogatories construe “any” to mean  
13 “each and every” and “any and all.” The burden of producing the information requested  
14 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
15 would outweigh any likely benefit.

16 The Commission objects to the Interrogatory’s unqualified demand for all  
17 Documents, Communications, and conversations as it encompasses information prepared  
18 in anticipation of litigation and, therefore, protected by the work-product doctrine and  
19 deliberative process privilege.

20 If the Interrogatory is intended to request a legal analysis or precedent  
21 demonstrating that Defendants’ representations regarding GCU’s nonprofit status were  
22 “material,” the FTC objects that the Interrogatory improperly requests legal analysis  
23 protected by the work product doctrine.

24  
25 **INTERROGATORY NO. 13:** With respect to Your allegation in Paragraph 39 of  
26 Your Amended Complaint that GCE “provided its telemarketers with telephone numbers  
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1 listed on the [Do Not Call] Registry even if GCE had no basis for claiming that  
2 telemarketing calls on behalf of GCU to a given number were permissible,” identify  
3 with specificity the factual basis, including all principal and material facts, for Your  
4 allegation that GCE had “no basis” for claiming that the telemarketing calls were  
5 permissible and identify all Documents, Communications, or conversations that support  
6 this allegation.

7 **INTERROGATORY NO. 13 RESPONSE**

8 In response to a civil investigative demand from the Commission, Defendant  
9 GCE produced data reporting the results of its efforts to identify records that would show  
10 that telemarketing calls made by GCE to telephone numbers on the National Do Not Call  
11 Registry were permissible under 16 C.F.R. § 310.4(v)(1)(iii)(B).

12 The data is labelled GCE-FTC-CID-013-00000001.txt and GCE-FTC-CID-018-  
13 00000005.txt. The data contains entries for more than 1.9 million telephone calls for  
14 which no basis for exemption under 16 C.F.R. § 310.4(v)(1)(iii)(B) could be identified.  
15 The data also contains entries for more than 800,000 additional telephone calls for which  
16 the entry for identifying documentation to support a claim that express written  
17 authorization was provided for the call is blank or reports that such documentation could  
18 not be located with entries that state “No Lead Form Screenshot Available” or “No  
19 Standardized EWC at time of Inquiry.” The absence of basis for telemarketing calls to  
20 telephone numbers on the Do Not Call Registry was also addressed in the testimony of  
21 Grand Canyon Education designee Dilek Marsh, and GCE’s responses to Civil  
22 Investigative Demand Interrogatory F.7(ii) (Oct. 5, 2023).

23 The FTC objects to portions of the Interrogatory demanding it to identify “all  
24 principal and material facts” and “all Documents, Communications, or conversations that  
25 support this allegation,” because they are overbroad, and unduly burdensome. The data  
26 and testimony described above is sufficient to support the allegation, Defendant GCE

1 has superior access to the facts, and no legitimate purpose is served by demanding that  
2 the FTC detail additional facts for this uncontested allegation. The Commission objects  
3 to the portion of the Interrogatory that requests “all Documents, Communications, and  
4 conversations” because it would be unreasonably burdensome to require the FTC to  
5 catalog such information for this allegation. The Interrogatory is overbroad and unduly  
6 burdensome because Communications is defined in this Set of Interrogatories to include  
7 “every exchange of information by any means . . . without limitation” and, thus, requests  
8 identification of every interaction in which telemarketer expectation and metrics would  
9 appear. The Interrogatory is overbroad and unduly burdensome because the definition of  
10 Communications states that anything that “relates to any correspondence or  
11 communication” is “deemed” to be a correspondence or communication— and defines  
12 “related” in a manner that encompasses information that is far removed from the actual  
13 evidence of the representation. The burden of compiling a description of each “deemed”  
14 Communication outweighs any likely benefit.

15 In addition, the instructions of this Set of Interrogatories construe “any” to mean  
16 “each and every” and “any and all.” The burden of producing the information requested  
17 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
18 would outweigh any likely benefit.

19 Finally, the Commission objects to the Interrogatory’s unqualified demand for all  
20 Documents, Communications, and conversations to the extent that it encompasses  
21 information prepared in anticipation of litigation and, therefore, protected by the work-  
22 product doctrine and deliberative process privilege.

23  
24 **INTERROGATORY NO. 14:** With respect to Your allegation in Paragraph 59 of  
25 Your Amended Complaint that “[s]tudents’ ability to satisfy GCU’s requirements may be,  
26 and has been, thwarted and delayed by GCU’s actions or inaction, such as reassignment

1 of faculty, inconsistent demands during the dissertation review process, and delays  
2 caused by the conduct of faculty appointed by GCU to various roles in the dissertation  
3 review process,” identify (a) the factual basis, including all principal and material facts,  
4 for Your allegation; and (b) all Documents, Communications, or conversations that  
5 support this allegation.

6 **INTERROGATORY NO. 14 RESPONSE**

7 The Commission objects that this Interrogatory is overbroad, unduly burdensome,  
8 and premature at this early stage of discovery, particularly given Defendants’ failure to  
9 produce relevant Documents. The Commission objects to the request for “all principal  
10 and material facts” for the allegation as unduly burdensome and premature because of  
11 the volume of materials describing delays, personnel changes, inconsistent demands, and  
12 other failures in the doctoral program. Defendants enrolled more than 7,500 consumers  
13 in doctoral programs during the period described in the Amended Complaint, and these  
14 programs precipitated hundreds of requests and appeals related to faculty, inconsistent  
15 demands, and delays.

16 The Commission objects to subpart (c)’s request for “all Documents,  
17 Communications, or conversations that support this allegation” because it is overbroad,  
18 unduly burdensome, and premature. A request to search for and describe all Documents,  
19 Communications, or conversations that support Paragraph 59 would require descriptions  
20 of many Documents, Communications, or conversations of marginal, indirect, or  
21 secondary support. Cataloging all such all Documents, Communications, or  
22 conversations that support this allegation would be unreasonably burdensome and not  
23 proportional to the needs of this case as the representations span multiple years, and often  
24 repeated in materials for different years and programs. The Interrogatory is overbroad  
25 and unduly burdensome because Communications is defined in this Set of

26 Interrogatories to include “every exchange of information by any means . . . without

1 limitation” and, thus, requests identification of every interaction with a website, email,  
2 messaging platform, social media, announcement, securities disclosure, flyer, brochure,  
3 presentation, or other media in which information about the allegations in Paragraph 59  
4 appear. The Interrogatory is overbroad and unduly burdensome because the definition of  
5 Communications states that anything that “relates to any correspondence or  
6 communication” is “deemed” to be a correspondence or communication – and defines  
7 “related” in a manner that encompasses information that is far removed from the actual  
8 evidence of the representation. The burden of compiling a description of each “deemed”  
9 Communication outweighs any likely benefit. Demanding all Documents,  
10 Communications, or conversations that support this allegation is also premature at this  
11 stage of discovery, in which Defendants have not yet produced relevant Documents.

12 In addition, the instructions of this set of Interrogatories construe “any” to mean  
13 “each and every” and “any and all.” The burden of producing the information requested  
14 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
15 would outweigh any likely benefit.

16 Finally, the Commission objects to the Interrogatory’s unqualified demand for all  
17 Documents, Communications, and conversations as it encompasses information prepared  
18 in anticipation of litigation and, therefore, protected by the work-product doctrine and  
19 deliberative process privilege.

20  
21 **INTERROGATORY NO. 15:** With respect to Your allegations in Paragraphs 69 and 72  
22 of Your Amended Complaint that Defendants made false or misleading statements  
23 regarding GCU being a non-profit institution and GCU’s doctoral programs in  
24 connection with advertising, marketing, promotion, offering for sale, or sale of GCU  
25 educational services, identify (a) the Defendant that made the statement; (b) the  
26 factual basis, including all principal and material facts, for Your allegation; and (c) all

1 Documents, Communications, or conversations that support this allegation.

2 **INTERROGATORY NO. 15 RESPONSE**

3 The FTC objects that this compound Interrogatory is multiple Interrogatories.  
4 The Interrogatory references Paragraph 69 and Paragraph 72 of the Amended Complaint,  
5 each of which describe two representations. Construed as four Interrogatories directed at  
6 each of the four representations, the FTC responds only to subpart (a).

7 (a) Defendant GCE, as exclusive marketer for GCU and performing services  
8 under the Master Services Agreement, and Defendant GCU, which authorized the  
9 advertising, marketing, promotion, offering for sale, or sale of GCU educational  
10 services, have represented that:

11 GCU is a non-profit institution;  
12 GCU transitioned back to its prior manner of operating as a non-profit institution;  
13 GCU doctoral degrees that include a dissertation are typically completed in twenty  
14 courses or 60 credits; and  
15 GCU's total charges for doctoral degrees that include a dissertation are the tuition  
16 and fees for twenty courses.

17 The representations in GCE and GCU advertising, marketing, promotion, and offering  
18 for sale of GCU educational services included statements attributed to Defendant  
19 Mueller stating that GCU is a non-profit educational institution and/or had reverted to  
20 the non-profit status that GCU held from 1949 to 2004.

21 (b), (c) The remaining subparts of these compound Interrogatories are overbroad,  
22 unduly burdensome, and premature at this early stage of discovery, particularly given  
23 Defendants' failure to produce relevant Documents. The Commission objects to the  
24 request for "all principal and material facts" for the allegation as unduly burdensome and  
25 premature because of the volume of advertising and marketing materials. The  
26 Commission objects to subpart (c)'s request for "all Documents, Communications, or

1 conversations that support this allegation” because it is overbroad, unduly burdensome,  
2 and premature. A request to search for and describe all Documents, Communications, or  
3 conversations that support these allegations would require descriptions of many  
4 Documents, Communications, or conversations of marginal, indirect, or secondary  
5 support. Cataloging all such all Documents, Communications, or conversations that  
6 support this allegation would be unreasonably burdensome and not proportional to the  
7 needs of this case as the representations span multiple years, and often repeated in  
8 materials for different years and programs. The Interrogatory is overbroad and unduly  
9 burdensome because Communications is defined in this Set of Interrogatories to include  
10 “every exchange of information by any means . . . without limitation” and, thus, requests  
11 identification of every interaction with a website, email, messaging platform, social  
12 media, announcement, securities disclosure, flyer, brochure, presentation, or other media  
13 in which Grand Canyon University representations appear. The Interrogatory is  
14 overbroad and unduly burdensome because the definition of Communications states that  
15 anything that “relates to any correspondence or communication” is “deemed” to be a  
16 correspondence or communication — and defines “related” in a manner that  
17 encompasses information that is far removed from the actual evidence of the  
18 representation. The burden of compiling a description of each “deemed”  
19 Communication outweighs any likely benefit. Demanding all Documents,  
20 Communications, or conversations that support this allegation is also premature at this  
21 stage of discovery, in which Defendants have not yet produced relevant Documents.

22 In addition, the instructions of this Set of Interrogatories construe “any” to mean  
23 “each and every” and “any and all.” The burden of producing the information requested  
24 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
25 would outweigh any likely benefit.

26 Finally, the Commission objects to the Interrogatory’s unqualified demand for all  
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Documents, Communications, and conversations as it encompasses information prepared in anticipation of litigation and, therefore, protected by the work-product doctrine and deliberative process privilege.

**INTERROGATORY NO. 16:** Identify each and every Person that You understood to be an employee or affiliate of Grand Canyon University or Grand Canyon Education with whom it is Your understanding that a consumer Communicated—in any form, fashion, or medium—about GCU’s nonprofit status, including the date(s) or approximate date(s) on which those discussions took place, the medium by which those discussions took place, and the employer or affiliate of each Person.

**INTERROGATORY NO. 16 RESPONSE**

The FTC objects that this Interrogatory is overbroad and unduly burdensome in requesting identification of *each and every* employee or affiliate of Grand Canyon University or Grand Canyon Education with whom a consumer Communicated—in *any form, fashion, or medium*—about GCU’s nonprofit status. Identification of each and every Person is unnecessarily burdensome and not proportional to the needs of this Litigation. GCE has employed hundreds of telemarketers, many identified as GCU counselors or advisors, and has recruited tens of consumers for since July 1, 2018. The expense and burden of compiling narrative details on every instance in which consumers Communicated in any form with an employee or affiliate of Grand Canyon University or Grand Canyon Education about representations about GCU’s nonprofit status would outweigh any likely benefits from such discovery. Moreover, to the extent that such Communications are memorialized, Defendants have superior access to relevant records. The Interrogatory is overbroad and unduly burdensome because Communications is defined in this Set of Interrogatories to include “every exchange of information by any means . . . without limitation” and, thus, requests the date and details of every consumer



1 interaction with a website, email, messaging platform, social media, announcement,  
2 securities disclosure, flyer, brochure, presentation, or other media in which Grand  
3 Canyon University is identified as a nonprofit. The Interrogatory is overbroad and  
4 unduly burdensome because the definition of Communications states that anything that  
5 “relates to any correspondence or communication” is “deemed” to be a correspondence  
6 or communication— and defines “related” in a manner that encompasses information  
7 that is far removed from a Communication with a consumer. The burden of compiling  
8 the date, medium and Persons for each “deemed” Communication outweighs any likely  
9 benefit. Furthermore, the Interrogatories are misdirected and premature at this early  
10 stage of discovery as Defendants have not yet produced information identifying their  
11 telemarketers or their records of their Communications with such consumers.

12 In addition, the instructions of this Set of Interrogatories construe “any” to mean  
13 “each and every” and “any and all.” The burden of producing the information requested  
14 by the Interrogatory for each and every exchange encompassed within this Interrogatory  
15 would outweigh any likely benefit.

16 Finally, the Commission objects to the Interrogatory’s unqualified demand for all  
17 Documents, Communications, and conversations as it encompasses information prepared  
18 in anticipation of litigation and, therefore, protected by the work-product doctrine, the  
19 informant’s privilege, and deliberative process privilege.

20  
21 **INTERROGATORY NO. 17:** Identify each and every Person that You understood to  
22 be an employee or affiliate of Grand Canyon University or Grand Canyon Education with  
23 whom it is Your understanding that a consumer Communicated—in any form,  
24 fashion, or medium—about any representations regarding the length of GCU’s  
25 doctoral programs, including the date(s) or approximate date(s) on which those  
26 discussions took place, the medium by which those discussions took place, and the



1 employer or affiliate of each Person at the time the Communication was made.

2 **INTERROGATORY NO. 17 RESPONSE**

3       The FTC objects that this Interrogatory is overbroad and unduly burdensome in  
4 requesting identification of *each and every* employee or affiliate of Grand Canyon  
5 University or Grand Canyon Education with whom a consumer Communicated—in *any*  
6 *form, fashion, or medium*—about *any* representations regarding the length of  
7 GCU’s doctoral programs.” Identification of each and every Person is unnecessarily  
8 burdensome and not proportional to the needs of this Litigation. GCE has employed  
9 hundreds of telemarketers, many identified as GCU counselors or advisors, and has  
10 recruited thousands of consumers for doctoral programs. The expense and burden of  
11 compiling narrative details on every instance in which consumers Communicated in any  
12 form with an employee or affiliate of Grand Canyon University or Grand Canyon  
13 Education about representations about the length of doctoral programs would outweigh  
14 any likely benefits from such discovery. Moreover, to the extent that such  
15 Communications are memorialized, Defendants have superior access to relevant records.  
16 The Interrogatory is overbroad and unduly burdensome because Communications is  
17 defined in this Set of Interrogatories to include “every exchange of information by any  
18 means . . . without limitation” and, thus, requests the date and details of every consumer  
19 interaction with a website, email, messaging platform, social media, announcement,  
20 securities disclosure, flyer, brochure, presentation, or other media in which the length of  
21 Grand Canyon University doctoral programs is referenced. The Interrogatory is  
22 overbroad and unduly burdensome because the definition of Communications states that  
23 anything that “relates to any correspondence or communication” is “deemed” to be a  
24 correspondence or communication— and defines “related” in a manner that encompasses  
25 information that is far removed from a Communication with a consumer. The burden of  
26 compiling the date, medium and Persons for each “deemed” Communication outweighs

any likely benefit. The Interrogatory is also overbroad because not all Communications regarding the length of doctoral programs concern the total costs, number of courses, or number of credits misrepresented by Defendants. Furthermore, the Interrogatories are misdirected and premature at this early stage of discovery as Defendants have not yet produced information identifying their telemarketers, the consumers recruited for doctoral programs, or their records of Communications with such consumers.

In addition, the instructions of this Set of Interrogatories construe “any” to mean “each and every” and “any and all.” The burden of producing the information requested by the Interrogatory for each and every exchange encompassed within this Interrogatory would outweigh any likely benefit.

Finally, the Commission objects to the Interrogatory’s unqualified demand for all Documents, Communications, and conversations as it encompasses information prepared in anticipation of litigation and, therefore, protected by the work-product doctrine, the informant’s privilege, the law enforcement privilege, and the deliberative process privilege.

**INTERROGATORY NO. 18:** Identify each and every false or misleading representation that you allege GCU or GCE made to the IRS, the Arizona Corporation Commission, or the Higher Learning Commission regarding GCU’s non-profit status. For each such alleged representation, identify (a) the Defendant that made the statement; (b) the factual basis, including all principal and material facts upon which you claim the representation was false or misleading; and (c) all Documents, Communications, or conversations that support this allegation.

**INTERROGATORY NO. 18 RESPONSE**

(a) Defendant Mueller filed articles of incorporation with the Arizona Corporation Commission that represent that Gazelle University was organized and operated

1 exclusively for charitable, religious, and scientific purposes within the meaning of  
2 Section 501(c)(3) of the Internal Revenue Code. The articles of incorporation also  
3 represented that no part of the net earnings or assets of Gazelle University shall inure to  
4 the benefit of, or be distributable on the dissolution or otherwise to, any trustee, officer,  
5 contributor or other private person or individual; and no property of Gazelle University  
6 shall be used or operated by Gazelle University or by any other person so as to benefit  
7 any trustee, officer, contributor, or any other person, through the distribution of profits,  
8 payment of excessive charges or compensation or the more advantageous pursuit of his  
9 or her business profession. Defendant Mueller and Gazelle University subsequently  
10 presented these articles to the IRS and Higher Learning Commission.

11 (b) Facts demonstrating that statements in the articles are false or misleading are  
12 described in the Department of Education Review of the Change in Ownership and  
13 Conversion to Nonprofit Status of Grand Canyon University, OPEID 00107400 (Nov. 6,  
14 2019); the Department of Education Reconsideration Review of the Change in  
15 Ownership to Nonprofit Status of Grand Canyon University, OPE ID: 00107400 (Jan.  
16 12, 2021); the Order on Motions for Summary Judgment in Grand Canyon University v.  
17 Cardona, No. CV-21-00177-PHX-SRB, ECR 96 (D. Ariz., Dec. 1, 2022), the  
18 administrative and summary judgment record in that Grand Canyon University v.  
19 Cardona, and the U.S. House Committee on Education and Labor Hearing on For-Profit  
20 College Conversions: Examining Ways to Improve Accountability and Prevent Fraud,  
21 Ser. No. 117- 7 (April 20, 2021). The Commission objects to the request for “all  
22 principal and material facts upon which you claim the representation was false or  
23 misleading” as unduly burdensome and premature for the reasons described below.

24 (c) The Commission objects to subpart (c)’s request for “all Documents,  
25 Communications, or conversations that support this allegation” because it is overbroad,  
26 unduly burdensome, and premature. A request to search for and describe all Documents,

Communications, or conversations that support this allegation would require descriptions of many Documents, Communications, or conversations of marginal, indirect, or secondary support. Cataloging all such all Documents, Communications, or conversations that support this allegation would be unreasonably burdensome and not proportional to the needs of this case given that discussions of re-characterizing Grand Canyon University date back to at least 2014, and findings and communications rejecting its claims to nonprofit status have occurred in the courts, legislature, and public pronouncements. Demanding all Documents, Communications, or conversations that support this allegation is also premature at this stage of discovery, in which Defendants have not yet produced relevant Documents.

Finally, the Commission objects to the Interrogatory's unqualified demand for all Documents, Communications, and conversations as it encompasses information prepared in anticipation of litigation and, therefore, protected by the work-product doctrine and deliberative process privilege.

DATED: November 7, 2024

Signing for Objections,

/s/ Michael E. Tankersley  
 Michael E. Tankersley  
 Carlton Mosley  
 Patrick Roy  
 FEDERAL TRADE COMMISSION  
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*Attorneys for Plaintiff*  
 FEDERAL TRADE COMMISSION

**VERIFICATION**

As authorized representative of the Federal Trade Commission, I, Sandhya P. Brown, verify that the Answers in the foregoing Responses to Defendant Grand Canyon Education, Inc.'s First Set of Interrogatories to Plaintiff Federal Trade Commission are based on a reasonable inquiry and non-privileged information available to the Federal Trade Commission, and are true and correct to the best of my information and belief.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the statements made in this declaration are true and correct.

EXECUTED on this 7th day of November 2024.

\_\_\_\_\_  
Sandhya P. Brown  
Associate Director  
Division of Financial Practices  
Bureau of Consumer Protection  
Federal Trade Commission